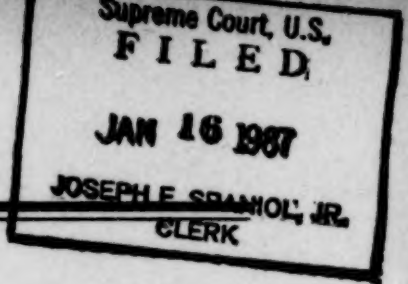


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No. 85-2064



IN THE
Supreme Court of the United States

OCTOBER TERM, 1985

**JAMES GREER, Warden,
Menard Correctional Center,**

Petitioner,

vs.

CHARLES "CHUCK" MILLER,

Respondent.

**On Writ Of Certiorari To The United States
Court Of Appeals For The Seventh Circuit**

JOINT APPENDIX

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TABLE OF CONTENTS

	PAGE
Relevant Docket Entries	1
Randy Williams, Excerpt of Cross Examination	3
Charles Miller, Direct Examination	8
Cross Examination	31
Excerpt of Prosecutor's Closing Argument	45
Jury Instruction	47
Excerpt of Trial Court's Ruling on Motion to Determine Attorney's Fees	49

The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear in the appendix to the Petition for Writ of Certiorari:

Opinion of the United States Court of Appeals for the Seventh Circuit (en banc)	App. A
Opinion of the United States Court of Appeals for the Seventh Circuit (panel).....	App. B
Opinion of the United States District Court, Central District of Illinois	App. C
Opinion of the Illinois Supreme Court	App. D
Opinion of the Illinois Appellate Court	App. E

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RELEVANT DOCKET ENTRIES

Date	Proceeding
1980	
Feb. 11	Information filed in the Circuit Court of the Seventh Judicial Circuit, Morgan County, Illinois.
July 9	Judgment of Conviction.
1982	
March 3	ORDER, Appellate Court of Illinois, Fourth Judicial District, that the judgment of conviction is REVERSED and the case REMANDED for a new trial.
1983	
April 13	ORDER, Supreme Court of Illinois, that the judgment of the appellate court is REVERSED and the case is REMANDED WITH DIRECTIONS.
Aug. 22	Petition for a Writ of Habeas Corpus.
1984	
Aug. 27	ORDER, United States District Court, Central District of Illinois, that respondent's motion for summary judgment is GRANTED and the petition is DENIED.

1985

- Aug. 27 ORDER (USCA) (panel) that the judgment of the district court is REVERSED, and the case is REMANDED with instructions to order petitioner's release unless the State of Illinois retries him within 120 days.
- Sept. 10 Petition for Rehearing with Suggestion of Rehearing En Banc.
- Nov. 14 ORDER (USCA) (en banc) that the petition for rehearing en banc is GRANTED.

1986

- April 9 ORDER (USCA) (en banc) that the judgment of the district court is REVERSED, and the case is REMANDED with instructions to order petitioner's release unless the State of Illinois retries him within 120 days.

IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
MORGAN COUNTY, ILLINOIS

Criminal No 80-CF-12

PEOPLE OF THE STATE OF ILLINOIS

v.

CHARLES "CHUCK" MILLER

Randy Williams

Cross Examination by Mr. Leefers.

* * * * *

[Vol. VI, 517] Q MR. LEEFERS: Mr. Williams, you said that you were telling the truth here today, isn't that right?

A Yes, sir.

Q And that's what you came into this court to do, isn't that correct?

A Yes, sir.

Q And, you are asking everyone here in this jury box to believe that "Chuck" Miller got into the car, didn't have any prior contact, went out to that bridge, robbed him on the way, and that was the first time you saw him, isn't that right?

A Yes.

Q Notwithstanding the fact that he had no involvement whatsoever with him in the Regulator, isn't that right?

A Yes.

Q Matter of fact, in any of those things, you are sure about one thing—any of those things you say that happened prior to going to the trailer, and that only involved you and “Butch” Armstrong, isn’t that right?

A Yes.

[Vol. VI, 518] Q As a matter of fact, you “Butch” Armstrong and your brother were at the Regulator, isn’t that right?

A Yes, sir.

Q And, that’s where you first saw Neil Gorsuch, isn’t that right?

A Yes.

Q Your brother’s car was involved in the incident, isn’t that right?

A Yes.

Q You were driving the car, isn’t that right?

A Later that night, yes.

Q You didn’t have the car at your house on Sherman Street?

A Yes.

Q You drove the car along Johnson Street, isn’t that right?

A Yes.

Q You drove the car somewhere north from there, did you not?

A Yes.

Q When you got to the house, it was your shotgun, was it not?

A Yes.

Q And you told “Butch” Armstrong where to get the shotgun, did you not?

[Vol. VI, 519] A Yes.

Q And you told him where to get the shells, did you not?

A Yes.

Q It was your pistol, was it not?

A Yes.

Q The man had an accident on your bathroom floor, isn’t that right?

A Yes.

Q You attempted to wipe up everything, did you not?

A Yes.

Q And you threw away a carton containing a bloody towel, did you not?

A Yes.

Q You were present when “Butch” Armstrong shot at him, were you not?

A Yes.

Q You went to that trailer, did you not?

A Yes.

Q You were waiting in the car with Neil Gorsuch when “Butch” went into that trailer, were you not?

A Yes.

Q That shotgun was under that seat, was it not?

A Yes.

[Vol. VI, 520] Q You had the keys to the car, isn’t that right?

A Yes.

Q You could have driven away, could you not?

A Yes.

Q Nobody forced you to go to this point, did they?

A No.

Q That was all voluntary on your part, isn’t that right?

A Yes.

Q And you drove him out to the Markham Bottoms Bridge, isn’t that right?

A Yes.

Q You were involved in the whole thing all the way along, isn’t that right?

A Yes.

Q Mr. Miller wasn't involved in it all the way along, was he?

A Not all the way.

Q He didn't have anything to do with you or Armstrong or the guy at the house, did he?

A No.

Q He wasn't with you down at the Regulator, was he?

A No.

Q And you are asking this jury to believe that you [Vol. VI, 521] went to your house, didn't have any prior contact, shot him and then he robbed him, is that what you're asking this jury to believe?

A Yes, it is, because it is the truth.

Q You are asking them to believe that you voluntarily participated, right?

A Yes.

Q In fact, you were there, weren't you?

A Yes.

Q You saw what happened, didn't you?

A Yes.

Q And you are telling us today what you want to tell us about what happened, aren't you?

A No.

Q MR. LEEFERS: Your Honor, may we approach the bench?

THE COURT: You may.

* * * * *

[Vol. VI, 523] You may proceed, Mr. Leefers.

Q MR. LEEFERS: Mr. Williams, I have two more questions: Isn't it true that you were originally charged with kidnapping, aggravated kidnapping, armed robbery and murder?

A Yes.

Q Isn't it true that, pursuant to an agreement with the State, they have dismissed armed robbery, aggravated kidnapping and murder and they have allowed you to plead to kidnapping?

A Yes.

Q Isn't it true that that agreement is contingent upon your coming in here yesterday and today to testify, at least in part, against Charles "Chuck" Miller?

MR. PARKINSON: I object, Your Honor. That wasn't the [Vol. VI, 524] question. He was supposed to testify truthfully.

THE COURT: Restate the question, Counselor.

Q MR. LEEFERS: Isn't it true that as part of that plea agreement what you will give the State back for dismissing those three counts is that you will come in here and testify truthfully against this man (indicating)?

A Yes.

MR. LEEFERS: No other questions.

* * * * *

IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
MORGAN COUNTY, ILLINOIS

(Title Omitted in Printing)

* * * * *

[Vol. VII, 75] **Charles E. Miller**

Having been first duly sworn on his oath, testified as follows:

Direct Examination by Mr. Woodruff.

Q Would you state your full name and address, please?

A My name is Charles E. Miller, 544 Brooklyn, Lot 8.

Q Here in Jacksonville?

A Yes, sir.

Q Are you also known as "Chuck" Miller?

A Yes, sir.

Q "Chuck", you are the defendant in this case, is that correct?

A Yes, sir.

Q And, you have been present throughout these proceedings and have heard the testimony?

A Yes, sir.

[Vol. VII, 76] Q Now, directing your testimony to February 9, which I believe was a Saturday, 1980, did you have occasion to see "Butch" Armstrong?

A Yes, sir, he come over to where I was stayin' on Brooklyn at the Blue Ridge Trailer Court.

Q Would you pull the microphone over a little bit? I assume it's on.

A Yes, it's turned on.

Q What were you doing at this time?

A I was asleep on the floor in the living room.

Q Did Mr. Armstrong come into the trailer?

A Yes, sir.

Q Were there any conversations ensuing between you and him?

A Yes, sir.

Q What was stated?

A "Butch" told me that he was in trouble and he needed to talk to me.

Q Who else was present at the trailer at this time?

A There was David Elliott sittin' by the kitchen table by the window; Debbie Elliott was sitting by the kitchen table; Barb Sitton was standin' in the kitchen and Theresa McDade had just come into the room. I was in the livin' room.

[Vol. VII, 77] Q Do you recall who awakened you?

A Yes, Debbie Elliott hollered at me and I woke up.

Q What happened after that?

A Well, I asked "Butch", I said, "What do you want to talk to me about", and "Butch" told me he wanted me to come with him, 'cause he couldn't say nothin' in front of all the people.

Q Did you subsequently leave the trailer?

A Yes.

Q How long was Mr. Armstrong at the trailer?

A Oh, probably a couple minutes at the most.

Q What happened after that?

A Well, I got up, put my shoes on, put my coat on and left—went out to the car.

Q Do you know about what time it was when Mr. Armstrong arrived?

A It was—it was about—it was comin' on daybreak.

Q Was there anyone else outside?

A Yes, sir, Randy Williams was in the car.

Q What kind of car was that?

A It was a brown '73 or '74 Gran Torino with a white top.

Q Where was Mr. Williams?

A He was in the driver's seat.

[Vol. VII, 78] Q Was the car running?

A I don't remember.

Q Did you get in the car?

A Yes, I got in the back seat.

Q Mr. Armstrong get into the car?

A Yes, he got in the front seat.

Q Which side of the automobile were you on, in the back seat?

A I was on the passenger side.

Q What happened after that?

A "Butch" told Randy to go out in the country someplace and Randy backed up and started down Country Club Road and the road was pretty bad—it was slick.

Q Was there anyone else in the automobile at this time?

A No, sir.

Q Did you notice anything unusual about the automobile?

A Well, when I was comin' out of the trailer, I noticed the car had a lot of slush and ice caked underneath the fender wells of the car.

Matter of fact, before I got in the car, I kicked some ice from underneath the fender well.

Q You indicated that you left the trailer court; would you describe for the jury where you all went?

A Well, when we left the trailer court, Randy backed out [Vol. VII, 79] and we started to go down Country Club Road and it got pretty bad—weather was pretty bad that night and we had to turn around, and we turned around and headed back to town.

Q Were there any conversations between the three of you during this trip?

A "Butch" and Randy was havin' a conversation in the front seat.

Q Were you able to hear what was said?

A No, the car was kinda' loud and they was talkin' in a low tone.

Q Was anything said to you?

Q Not at that time.

Q Was something said at a later time?

A Yes, I finally asked "Butch"—I just come out and asked him—I said, "Well, what was so important you had to talk to me about", and "Butch" said he was in some big trouble and he needed my advice on somethin' and I said, "Well, what", and "Butch" stated that him and Randy had killed somebody.

Q This was while all three of you were in the car?

A Yes.

Q Did Mr. Williams make any statement?

A Not at that time, he didn't.

Q Now, you indicated that you were out on the Country Club Road, and I think you said you were returning? [Vol. VII, 80] A Yes, we had to turn around.

Q Where did you go from that point?

A Well, "Butch" told Randy to go to Randy's house and we come back to, I think it was Morton and we went down to either Hardin or Clay Street and from there, we went to, I believe it was East State, in front of the blind school and turned on, I think it was Howell Street, went down to Sheridan and to Randy's house, on Sheridan Street.

Q You, in fact, went to Mr. Williams's house?

A Yes, sir.

Q What happened after you arrived there?

A Well, "Butch" and Randy opened the door and when the dome light come on, "Butch" told Randy—he pointed in the back seat, and he told Randy, "You better get this

blood cleaned out of the car and there was some blood in the car, in the back seat.

Q Okay, back to this trip just a minute: were there any more conversations between any of the parties before you arrived back at Sherman or Mr. Williams's house?

A Yes, I asked "Butch", who was this guy.

Q Did he respond?

A He said it was somebody they picked up in the Regulator.

Q Did you ask any other questions?

[Vol. VII, 81] A No, I didn't.

Q Now, after you arrived at the house and were leaving the automobile, what happened after that?

A We went in the house and when we got in the house—

Q Is that all three persons going into the house?

A Yes.

Q What happened after you got inside?

A "Butch" sat down on the arm of the couch—I stayed standin' by the front door. Randy went in the bathroom and got a towel and went out to the car and, apparently, cleaned the blood out of the car that was in it.

Q So, that left you and Mr. Armstrong in the house?

A Yes.

Q Were there any conversations between you at that time?

A Yes, "Butch" asked me, he said, "What do you think about Randy, do you think he'll say anything", you know, and I told "Butch", you know, I don't really know, you know Randy better than I do, because, in fact, I didn't really know Randy Williams.

Q How long was Mr. Williams outside?

A Three or four minutes.

Q Were there any more statements made by you or Mr. Armstrong during the time he was outside?

[Vol. VII, 82] A "Butch" just said he wasn't sure about Randy; he didn't know whether he'd say anything or not.

Q Did you ask any questions during this time?

A I'd asked "Butch" why they'd killed this guy.

Q Did Mr. Armstrong state anything to this effect?

A Yes.

Q What did he say?

A He said, that him and Randy had beat this guy up and he was gonna' go to the police on it.

Q Did Mr. Williams subsequently come back in the house?

A Yes, he come back in the house.

Q Tell the jury what happened after he returned to the house.

A Randy come back in the house and he went to the bathroom and he still had this rag or towel, whatever it was, and he come back outta' the bathroom

When he come back outta' the bathroom, there was a like between the dining room and the living room, it's an arch-way, like. There ain't no doorway and he went to the floor there and picked up this throw-rug, and underneath this throw-rug there was a stain that looked like blood on the floor. Randy asked me and "Butch" what he could use to get this up off of the floor.

[Vol. VII, 83] Q So, you discussed how to clean up this blood spot?

A Yes, "Butch" told him that maybe he could use some cleanser on it, wet the carpet and put some cleanser on it and clean it up.

Q Did Mr. Williams do that?

A Not at that time he didn't.

Q What, if anything, happened after that?

A I'd asked Randy where this blood come from and Randy said he hit this man in the head and that's where he laid on the floor.

Q Did he indicate what he had hit him with?

A I asked him, "What'd you hit him with", and in this arch-way, there was these hooks and these sticks, like on a string, and these two sticks and he indicated that that was what he'd hit him with. He picked 'em up off the hook.

Q Were these sticks similar to the numchucks that were demonstrated here in the courtroom the other day?

A Yes.

Q What happened after that?

A Well, I had ran out of beer and I asked Randy, I says, "You got any more beer", and he got me and "Butch" another beer. "Butch" said he wanted one, too.

And, then I asked, "Well, did anybody see you with this guy?", and Randy said they was seen leavin' the Regulator with [Vol. VII, 84] him, and that Randy's brother, Rick, was with 'em when they left the Regulator. I asked 'em if Rick knew about it, and Randy said no, and "Butch", then, he said he thought they oughtta' tell Rick about it, 'cause "Butch" said if the police come, he was gonna' deny ever bein' with the dude and he said Randy should do the same thing and they oughtta' tell Rick so he would say that the guy wasn't with 'em.

Q Did you make any statements about what should be told Rick Williams?

A "Butch" asked me what I thought about it and I told him that they oughtt'a just say that they took the guy home, if the police come to 'em.

Q Was there any other further conversations about this incident?

A Randy said that he would tell his brother, Rick.

Q Approximately how long were you in Mr. Williams's house?

A Thirty minutes.

Q What happened after these conversations you just outlined?

A I went to the bathroom and when I come outta' the bathroom, "Butch" and Randy was smokin' some reefers.

Q "Reefer"—you mean marijuana?

A Yes.

[Vol. VII, 85] Q Were you smoking any?

A No, they offered it to me. I don't smoke.

Q What did you do?

A I went and set down on the couch and there wasn't much more conversation. "Butch" then stated he wanted to go home. He asked Randy to take him home.

Q What happened after that?

A We all went out and got in the car.

Q You say "we all"—that's who?

A Me, Mr. Williams, and Mr. Armstrong.

Q Where did you go from there?

A We went to "Butch" Armstrong's house on Beecher Street.

Q Who was driving?

A Randy Williams.

Q What were the road conditions out?

A They was pretty slick.

Q Do you know or have any idea how long it took you to get to Mr. Armstrong's house?

A No, I couldn't say.

Q Where does he live?

A On West Beecher.

Q Were there any conversations during this trip from the car to Mr. Armstrong's house?

[Vol. VII, 86] A "Butch" just told me to make sure I don't say nothin' to nobody about it and I told him I wouldn't.

Q What happened when you arrived at "Butch" Armstrong's house?

A When we got to "Butch's" house, he asked me if I'd stay there with him and I told him, no, I had to go

up to the cab office and do some work for a guy at nine o'clock in the morning and he asked me again, and I told him no I couldn't and we got back in the car and we went—

Q Where did you and Randy Williams from there?

A From there we went to Dottie's Cafe.

Q Do you know what time it was when you arrived at that Cafe?

A Oh, approximately—a little after seven in the morning.

Q Did you have a watch on?

A No.

Q What made you think it was that time?

A Because it was before daylight.

Q What did you do after you arrived at the restaurant?

A I ate breakfast and Randy ate breakfast and—

Q Did you eat your breakfast?

A Yes, I ate my breakfast.

Q Did Mr. Williams eat his breakfast?

A I don't know.

[Vol. VII, 87] Q What else happened while you were there?

A Randy played some pool and I played a game of pool with, I think, it was Dale Williams and after I got done playin' pool, Randy played another game.

When Randy was in the process of the game, I asked him if he'd take me home, 'cause I had to get ready to go up town and he said he would after he got done playin' his game of pool.

Q Do you need a drink of water, "Chuck"?

A No.

Q Okay.

Do you recall approximately how long you were at the restaurant?

A 45 minutes to an hour.

Q Did you subsequently leave the restaurant with him? With Randy Williams?

A Yes, sir.

Q Where did you go from there?

A I went back to 544 Brooklyn.

Q This is the trailer court?

A Blue Ridge Trailer Court.

Q Were there any conversations on the way back to this trailer court between you and Randy Williams?

A No.

Q What was Mr. Williams's demeanor; I mean, how was he acting?

[Vol. VII, 88] A He was quiet.

Q What happened, if anything, once you arrived back at the mobile home?

A When I got back, I went inside.

Q Who was there when you got there?

A David Elliott was settin' on the couch, watchin' television.

Q Was he awake?

A Yes.

Q Who else was there?

A Barb Sitton was in the kitchen, settin' at the kitchen table.

Q Was she up and awake?

A Yes, she was awake.

Q Okay, who else was there?

A Theresa McDade was in bed asleep and Debbie Elliott was asleep and "Butch" Beddingfield was asleep.

Q What, if anything, did you do when you went into the trailer?

A Well, I talked to Dave a little bit and after I talked to David, I went in the bathroom and cleaned up and put on some old clothes so I could go up town and do some work and then I woke Theresa up and told her she had to take me to the cab office.

[Vol. VII, 89] Q Do you recall approximately what time this was when you woke Theresa up?

A It was 8:30 when I woke her up.

Q What did she do after you woke her up?

A She got up and started to get ready and Julie Price come in the trailer and she said she was goin' to a doctor, and Theresa told her she would take her while she took me to the cab office.

Q Who is Julie Price?

A She's a girl that lives in the next row in a trailer.

Q Did you subsequently leave the trailer?

A Yes, I went out and started the car and warmed it up and Theresa come out and got in the car and we pulled over by Julie's trailer and waited for her to come out.

Q Is that a neighboring trailer, close by?

A Yes.

Q And what did you do then?

A Julie got in the car and I went to the cab office; they took me to the alley next to the cab office and I got out. I went into the cab office and asked the dispatcher if Jack Ginter had been there and she said he wasn't there yet.

Q You spoke to someone in the cab office?

A Yes.

Q Who was that person?

[Vol. VII, 90] A It was a lady dispatcher; I don't know her name.

Q Was that the lady that testified here the other day?

A Yes, sir.

Q You were asked about Mr. Ginder?

A Yes, sir.

Q What did she say?

A She said that he had not been there yet, that I would have to come back later.

Q What did you do then?

A From there I went over to Gene's Barber Shop; it's right across the street and I set in there and talked to Gene for awhile, and when I was over there, he told me a guy had been lookin' for me and I was supposed to work on his car for him.

I stayed around there for a little while and I went back to the cab office about half hour later to see if Jack was there. When I got there, I went inside and the dispatcher said Jack hadn't showed up yet and I'd have to come back later and when I was walkin' out the door, Jack come around the corner and I talked to him, and he said he wouldn't need me and he said to come back Monday, probably need me Monday.

So, I went back to the barber shop and asked Gene where this guy was that wanted me to work on his car and he told me he was over at the Drexal playin' pool tournament.

[Vol. VII, 91] Q So, you're up town and you've gone back and forth, is that right?

A Yes, sir.

Q What did you do after that?

A I went to the Drexal and got this guy's car and it needed a door window in it and I went to several places to Surratt's and B. & W. Motors.

Q What kind of places are these?

A These are junk yards.

Q Okay.

A And, I made a phone call to Ray Hayes and asked him if he had one and I couldn't find a window for his car, so I stopped by the trailer.

Q This is back out at Brooklyn?

A Back out at Brooklyn, yes.

Q Did you go in the trailer?

A Yes.

Q Who was there when you arrived?

A When I got there was Theresa McDade, Debbie Elliott, David Elliott, Barb Sitton and "Butch" Beddingfield.

Q What did you do after you got there?

A Well, "Butch" Beddingfield, David Elliott, and Barb Sitton was gettin' ready to go up town to play some pool and they asked me to go with them and I said I would after I took [Vol. VII, 92] this guy's car back and asked them if they'd follow me to the Drexal.

Q Did they?

A Yes, they followed me to the Drexal and I took this guy's car keys in to him and told him where his car was and got in the car with "Butch" Beddingfield and David Elliott and Barb Sitton.

Q Whose car was this?

A I think it was Barb Sitton's car.

Q Okay, and what did you do then?

A We went to the bowling alley.

Q Do you have any idea what time it was when you arrived at the bowling alley?

A I can't be for sure.

Q And which bowling alley is this?

A The one on Walnut.

Q What did you do while you were out there?

A Played pool and drank some beer.

Q Do you have any idea how long you were there?

A Probably a couple hours.

Q What did you do when you left the bowling alley?

A I had Barb take me back up to Gene's.

Q This is the barbershop?

A This is the barbershop, yes.

[Vol. VII, 93] Q What did you do there?

A I talked to Gene for a little while. I was kinda' tired 'cause I hadn't got much sleep, so I called Theresa at the trailer and asked her if she'd come and get me.

Q Did she, in fact, come up there?

A Yes, she come and got me.

Q Where did you go from there?

A I went back to the trailer on Brooklyn.

Q Do you have any idea what time it was when you got back to the trailer?

A Oh, 'bout, approximately 1:30.

Q Was there anybody there when you arrived?

A Yes, Debbie Elliott and her two kids.

Q Anybody else?

A Just Theresa and me.

Q What did you do after you got back to the trailer?

A I laid down and went to sleep.

Q Did you have occasion to see "Butch" Armstrong or Randy Williams later that same day?

A Yes.

Q When was that?

A It was about 4 o'clock, they come out to the trailer and—on Brooklyn.

Q Okay, you say "they came out to the trailer", were [Vol. VII, 94] they in a car?

A Yes.

Q What kind of car was that?

A It was the same '73 or '4 Gran Torino.

Q Did they come in the trailer?

A "Butch" did.

Q Where was Randy Williams?

A He was in the car.

Q Did you have any conversations with "Butch" Armstrong?

A Yes.

Q What did he say?

A He asked me if I wanted to go drinkin' with him and Randy.

Q What did you say?

A I told 'em no, but I told him they could give me a ride up town.

Q What happened after that?

A They give me a ride up to Gene's Barber Shop.

Q Now, this is the same barbershop?

A Same barbershop, yes.

Q Do you have any idea what time it was when you arrived at the barbershop?

A Approximately 4:30.

Q This is barbershop is just across the street from [Vol. VII, 95] the cab company?

A From the cab office, yes.

Q So, you got there about 4:30; what, if anything, happened after that?

A I just set around in there and I talked to Gene and I played cards with somebody; I can't remember who it was.

Q Did you ever see "Butch" Armstrong or Randy Williams again that day?

A I seen Randy Williams again, yes.

Q About what time was that?

A Gene was gettin' ready to close and he give me his car keys—he closes at 5:30, and I went down the street and got his car and brought it back for him and after that, I went to Bahan's, I walked over to Bahan's, and Randy Williams was there.

Q Who all was at Bahan's that you knew?

A Randy Williams, Rick Williams, Chris Peterson, and Randy and Rick's mom and dad.

Q Will you describe to the jury what you all did there at Bahan's?

A I was settin' at the bar at first and Randy came up to the bar and invited me over to the table and said he wanted me to shoot some pool with him and I got up and went to set at the table that Rick and Chris and

Randy's mom and dad was [Vol. VII, 96] settin' with Randy.

Q Were there any conversations between you and Randy Williams or Rick Williams at that time?

A No, we was just talkin' about shootin' pool at that time.

Q About how long were you there?

A Maybe an hour and a half or two hours.

Q Did you subsequently leave Bahan's?

A Yes, Rick Williams, Chris Peterson, Mr. and Mrs. Williams, they wanted to go over to Andy's and get something to eat and Randy invited me to go with them.

Q Did you go?

A Yeah, I went.

Q Now, did you all walk out together?

A Yes.

Q Were there any conversations between you and Randy Williams or you and anyone else at that time?

A No.

Q Any conversations between the others?

A Well, when we walked out, Randy and Rick's mom and dad was—and Chris Peterson was kinda' together and then there was Randy and Rick, they was walkin' together and I was a little bit behind, but Randy and Rick was talkin' and when I walked up, they quit talkin'—I caught up with 'em.

[Vol. VII, 97] Q Were you able to hear what was said?

A No, sir, I wasn't.

Q Did you eventually get to Andy's?

A Yes.

Q Would you describe for the jury what happened at Andy's?

A Well, when we got to Andy's, we all set at the same table and Mr. and Mrs. Williams, Chris Peterson, Rick Williams bought somethin' to eat and me and Randy didn't eat.

Q How long were you there at Andy's?

A Randy was talkin' about goin' to Harold's and he wanted to get there before the band started.

Q Is that Harold's Club, here in Jacksonville?

A Yes, Harold's Club and we stayed there and drank a few beers and it was about—it was a little bit before 9:00 and I looked at the clock and I told Randy we'd better get goin' if we wanted to get there before the band started and I told Randy I didn't have any money to get in with, and he give me \$5.00, so I could get in.

From there, we left—me, Randy Williams, Rick Williams, Chris Peterson, I think.

Q You say you left; did you leave in the car?

A Well, we went out the back door. The car was parked at Bahan's parking lot.

[Vol. VII, 98] Q Where did you go from there?

A We went to Randy Williams's house.

Q The house at 310 Sherman?

A Yes.

Q What happened when you arrived at the house on Sherman?

A We all went inside; me, Chris Peterson, and Rick Williams set down at the dining room table. And Randy Williams went into—at least, I think it was, his bedroom and he had a big bag of reefers.

Q You're talking about marijuana again?

A Yes.

Q What happened then?

A Well, Randy lit a joint and he lit it and started passin' it around. They asked me if I wanted some, and I said, "No", but Randy, Rick and Chris was smokin' it.

Q What were you doing?

A Well, I got up and went over and I asked Randy if I could look through his tapes and he said, "Yeah", and I went over to the tape player and was lookin'

through the tapes, and I picked a tape up that was "Bad Company" tape and put it in the tape player and when I was messin' with the tape, Randy and Rick went into the back room, back bedroom.

Q Where was Christine Peterson?

[Vol. VII, 99] A She was still settin' at the dining room table.

Q Had there been any conversations in the house?

A Just idle talk, at that time.

Q You say Randy and his brother went in the bedroom; what did you do then?

A I went back and set at the table. I had a beer at the table.

Q What did you do then?

A I set there for a few minutes and I wondered what Randy and Rick was doin', so I got up and went in the other room, where they was at.

Q Were there any conversations going on when you walked into the room?

A Yes, Randy and Rick was talkin'.

Q Did you hear what was stated?

A Randy said to Rick, he said, when I come in, he said, "I really ain't kiddin'. I did kill that dude", and that's what he said.

Q Was there any response by Rick Williams?

A Rick said—the only thing he said, he said, "You better not've".

Q Did you say anything?

A No, I didn't.

Q What happened after this?

[Vol. VII, 100] A We all walked out of the bedroom and we went into the livin' room, then.

Q What were you all doing at that point?

A Rick Williams and Chris Peterson set on the couch and I was standin', like in the arch-way, between the dinin' room and the livin' room.

Q Did you have any more conversations with Rick or Randy or Chris Peterson, for that matter?

A Yes, in this archway, there was these hooks, and these sticks that I indicated earlier was hangin' from these hooks.

Q Are you referring to numchucks?

A Yes, and I asked Randy, "How do you use these things?" Rick, then, told Randy, said "Go ahead and show him", and Randy took these things off the hook and he started swingin' 'em around his shoulders and under his legs and stuff, showed me how to use 'em.

Q What did you do?

A I just watched.

Q Now, what happened, if anything, after this?

A Well, after that, we all went out and got in the car and Randy asked Chris and Rick if he could use the car for the night and they said, "Yes", so we took Rick Williams and Chris Peterson to the house down the street. [Vol. VII, 101] Q That's where they reside?

A Yes.

Q Where did you go from there?

A Harold's Club.

Q Now, who all went to Harold's Club?

A Me and Randy Williams.

Q You were alone, you two?

A Yes.

Q Do you recall what time you arrived at Harold's Club?

A It was probably about 9:30 or so, 'cause the band had already started, when we got there.

Q Do you remember the name of the band?

A No, I don't. It was one of the regular bands.

Q Okay, now, what did you and Randy Williams do while at Harold's Club?

A Randy went and set at a table with some people he knew and I more or less just run around. I played the pinball machine, played a game of pool and talked to some friends of mine that was in there.

Q Did you have any more conversations with Randy?

A He asked me one time if I knew where he could get any dope.

Q What'd you say?

A I tole him that I might know somebody, that I'd ask [Vol. VII, 102] around and I asked him what he wanted.

Q How long were you in the Harold's Club?

A Till closin' time.

Q And do you know what time their closing time is?

A About 1:30 is when they usually close.

Q What did you do after this place closed?

A Well, I talked to a guy out there, David Fanning, and he said he was havin' a birthday party at his house down at Murrayville, and he asked me if I wanted to come and I told him I'd come if I could talk Randy into goin', 'cause Randy the only way I had gettin' there, so I went and talked to Randy and he said he would go, so we then went out and took two other guys with us.

Q Who were these other persons?

A Mark Lockwood and Alex Daniels.

Q You had met them at the Harold's Club?

A Yes, met 'em at the Harold's.

Q Did you, in fact, go out to this place?

A Yes, we went out there.

Q Now, where was that, again?

Q It was right off Highway 67, before you get to the junction that goes to Murrayville.

Q Do you have any idea what time it was when you arrived there?

[Vol. VII, 103] A Probably 2:30.

Q How long did you stay at this party?

A We stayed a couple of hours.

Q Did you have any conversations with Randy about this incident that you discussed with him earlier?

A No, we was all playin' cards; we was playin' a game of poker for small change.

Q How long were you at this party?

A Probably a couple of hours is all.

Q Did you have any idea what time it was when you left?

A I couldn't say, no.

Q Who all left?

A When we left—it was me, Randy Williams and Mark Lockwood.

Q Where did you go from the party?

A I was drivin' 'cause Randy was too messed-up; he couldn't drive and he was runnin' off the road on the way down there, so I drove back. From there, we went back to Jacksonville.

Q Who all left the party with you?

A Me, Mark Lockwood and Randy Williams.

Q And you were driving Randy's car, is that correct?

A Yes.

Q Where did you go from the party?

[Vol. VII, 104] A We went back to Jacksonville.

Q What did you do when you got back in town?

A We went and got somethin' to eat and then we took Mark Lockwood home to the Rollin' Acres Trailer Court.

Q What happened after that?

A After that, Randy told me, he says, "I want you to take me over to "Butch's" house", so I took him over to "Butch's" house.

Q Is this "Butch" Armstrong's house on Beecher?

A Yes, sir.

Q Okay, what happened when you got there?

A We went up and knocked on the door, "Butch's" brother, Buster, opened the door and we stepped in, and when he answered the door, I stepped up on the step and Buster was mad and Randy said, "Where's 'Butch'?" and Buster said he was in jail and the police wanted to talk to Randy and his brother, Rick; he'd better get to the police station.

Q Did you say anything at that point?

A No, I didn't.

Q What happened after that?

A Randy kept, you know, wantin' to know what "Butch" was in jail for and Buster and—he got mad, and he said, "Well, you just better get up to the police station, you and your brother both", and we left after that. [Vol. VII, 105] Q And then what happened after you left the Armstrong house?

A I started the car up and looked at the gas gauge and it was settin' on empty and he give me a dollar and we went to the Derby Gas Station.

Q Where is that?

A It's on Morton.

Q Would you tell the jury what, if anything, happened after that?

A Well, when we got out there, I got out and turned the pump on and waited for the man on the inside; he had to turn the pump on before I could get any gas and while I was standin' there, the police pulled up and told me to get up against the car and handcuffed me and took me to jail—took Randy to jail, too.

Q So, you were arrested there at Derby?

A Yes.

Q Did you see them find any weapons in the automobile?

A Yes, they found a pistol underneath the seat.

Q Have you ever seen that pistol before?

A No, sir.

Q All this time you were in the automobile, did you ever notice any weapons in there?

A No, sir.

[Vol. VII, 106] Q That's from the time they first came by to get you at the trailer until you were arrested, did you ever see any weapons at all in there?

A No, sir.

Q Now, "Chuck", when you were first told about somebody killing somebody, did you believe these guys at the time?

A No, sir.

Q What was your feeling, do you recall?

A I thought they was kiddin', but I didn't really believe 'em.

Q Now, I'm going to ask you, and I want you to just take your time: did you ever go out in the western part of the country on the edge of Jacksonville with Randy Williams on February 9, 1980?

A No.

Q Did you ever drive to a bridge anywhere with Randy Williams?

A No, sir.

Q Did you ever shoot anybody with a shotgun or any other weapon that same day?

A No, sir.

MR. WOODRUFF: Thank you. That's all I have.

MR. PARKINSON: I'd like to ask for a short recess, Your Honor.

[Vol. VII, 107] THE COURT: We will take a short recess.

Take the jury out.

(Short recess was taken.)

THE COURT: Bring in the jury.

Be seated, please.

MR. WOODRUFF: Your Honor, I wonder if I might just ask one or two questions before Mr. Parkinson begins?

THE COURT: You may.

Direct Examination Continued.

Q "Chuck", you've been in trouble with the law before, haven't you?

A Yes, sir.

Q Have you ever been convicted of a felony?

A Yes, sir.

Q What was that?

A Aggravated battery.

Q When were you convicted?

A April 16, 1976.

Q That doesn't have anything to do with this case, does it?

A No, sir,

Q Thank you. Nothing further.

[Vol. VII, 108] THE COURT: Mr. Parkinson, please.

Cross Examination by Mr. Parkinson.

Q Mr. Miller, how old are you?

A 23.

Q Why didn't you tell this story to anybody when you got arrested?

MR. LEEFERS: Objection, Your Honor. May we approach the bench?

THE COURT: You may.

(Whereupon the following colloquy ensued out of the hearing of the jury:

MR. LEEFERS: Your Honor, I think this is an infringement of his exercise of his right to remain silent. At this point in time, I will ask for a mistrial-

THE COURT: What do you say, Mr. Parkinson?

MR. PARKINSON: Well, he has taken the stand and he is open to cross examination extensively. He is entitled to be questioned by the State as to why he didn't talk to anybody about it at the time. It goes to his credibility and I don't think it's an improper question.

THE COURT: Have you got a case that says it's improper?

MR. LEEFERS: No, Your Honor. I didn't think Mr. Parkinson would ask that question, quite frankly.

[Vol. VII, 109] THE COURT: I will deny your mistrial, your motion for mistrial, but I will sustain your objection. The jury will be instructed.

MR. LEEFERS: And that Mr. Parkinson desist.

THE COURT: I will do some checking during the time he is on the witness stand on Cross Examination and if I find where he can, I will let him ask the question.)

The objection will be sustained and the jury will be instructed to ignore that last question, for the time being. You may continue, Mr. Parkinson.

MR. PARKINSON: Mr. Miller, I believe you said that you were sleeping at the trailer when Mr. "Butch" Armstrong came in and asked for your advice, is that correct?

A Yes, sir.

Q When he came into the trailer, did he tell you what he wanted your advice for?

A No, sir.

Q About what time do you think that was?

A It was comin' on daylight.

Q Just like it was coming on daylight when you were eating at Dottie's Cafe a little bit later?

A No, it wasn't comin' on, it was already daylight when we got to Dottie's Cafe.

Q Now, he woke you out of a sound sleep there on the [Vol. VII, 110] floor and you moseyed on out to the car, is that right?

A Yes, sir.

Q Okay. Were you very tired?

A Yes, I was very tired.

Q Are you a pretty good friend of "Butch" Armstrong's?

A Yes, sir.

Q Does he ask for your advice often?

A Sometimes.

Q What about?

A Nothing in particular.

Q But he wakes you up and doesn't tell you what he wants your advice for and you just get dressed and put your shoes on and come on out to the car before daylight, is that right?

A Yes, sir.

Q When you got in the car, you got in the back seat?

A Yes, sir.

Q When was the first anyone said anything about this advice they wanted from you was for?

A It was on the way to Randy's house.

Q After you turned around on Country Club Road?

A Yes, sir.

Q So, from the time when you left the trailer until you got out on Country Club Road and turned around, you didn't know [Vol. VII, 111] what they were asking you?

A No, sir.

Q And you still just got out of this nice, sound sleep and they're just driving you around on these rotten roads in the early morning hours as it's getting daylight?

A Yes, sir.

Q Didn't that make you mad?

A No, sir, it didn't.

Q Was he going to pay you for this advice, or what?

A No, sir.

Q Tell us again, how it was that you learned what they wanted this advice for.

A Well, what I'd learned—they said that they'd killed somebody—

Q Who said?

A "Butch".

Q "Butch" said that they'd killed somebody?

A Yes.

Q Was that before you got to the house, or after you got in the house?

A That was before we'd got to the house.

Q Now, when you got out of the car and went into the house, you said that you noticed something in the back seat?

A Yes, there was blood in the back seat.

[Vol. VII, 112] Q How do you know it was blood?

A That's what it appeared to be. It was a red stain, and "Butch" said that it was blood.

Q He said it was blood?

A Yes, he told Randy he better get it cleaned up.

Q Oh. Now, how is it you saw it so well if it isn't daylight yet?

A Dome light in the car come on.

Q How did it come on?

A When they opened the door to get outta' the car.

Q Are you sure that dome light worked?

A Sure—pretty sure.

Q That would be the only way you could see it, is if the dome light worked, wouldn't it?

A No, it was pretty light outside.

Q Well, did you see the blood because it was pretty light out or because the dome light came on?

A I thought the dome light came on.

Q Now, what do you think?

A I still think the dome light came on.

Q I believe you said something about "Butch" wasn't sure about Randy?

A That's right.

Q What did he mean by that?

[Vol. VII, 113] A He didn't know whether Randy would tell or not.

Q Now, you still didn't believe that there had been a murder committed, did you?

A No, sir.

Q Thought they were just kidding?

A Yes.

Q You thought that they got you up out of a sound sleep to tell you this joke?

A No, when I seen the blood, I thought maybe they'd hurt somebody pretty bad.

Q Okay. Now, when you got in the house, you said there were these sticks.

A Yes.

Q Hanging over the archway—you asked Randy what he'd hit the guy with?

A Yes.

Q And I think your testimony was that he'd indicated that's what he'd used?

A Yes, he reached up and pulled one set of 'em off the hook.

Q Well, what did he say about that?

A He said this is what he hit him with.

Q What did "Butch" say?

A "Butch" didn't say nothin' about it—he said he [Vol. VII, 114] beat him up in the car, but he didn't say nothin' about usin' anything on him.

Q Did "Butch" or Randy tell you who beat him up the worst?

A No.

Q Did Randy say where he had hit him?

A Yes, he said he hit him with them sticks.

Q Did he say where he hit him?

A He said he hit him in the head.

Q Front of the head or back of the head?

A He didn't say.

Q Did "Butch" say where he'd hit him?

A No, sir.

Q Did you ever bother to ask where the body was?

A Yes, I asked 'em, "Where's this guy at?" "Butch" said they got rid of him.

Q Did you bother to inquire where they got rid of him?

A No, sir.

Q Could have been under the rug with that blood stain, for all you know, couldn't it?

A For all I know. I don't know what they done with it.

Q Now, what about this throw rug that they picked up?

You said you saw a blood stain under it?

A Yes, sir.

[Vol. VII, 115] Q Is that the one that Randy tried to clean up?

A He didn't try to clean it up at that time.

Q Well, did you still think they were kidding when you saw the blood stain on the floor?

A I thought that they'd hurt somebody, but I wasn't for sure, if they'd killed anybody or not.

Q Well, you were for sure that they told you they were in trouble, or "Butch", I guess, was in trouble.

A They acted like they was in trouble. They was nervous.

Q If I understand your testimony, then, you got a beer and you sat down and you began giving them this advice that they'd sought from you?

A They asked me, yes, uhuh.

Q What they should say if the police came around, and things like that?

A Yes.

Q And, you volunteered this information, your good advice, over a beer?

A Yes.

Q Tell us again what you told them to do.

A I told 'em they oughtta' tell the police that they took this guy home.

Q Now, after you'd seen the blood in the car and the blood on the floor and after they'd told you that they'd [Vol. VII, 116] killed him and after you'd seen these sticks, what did you hang around for?

A I didn't hang around very much longer.

Q Well, then you took "Butch" home?

A Yes.

Q Then you went to Dottie's Cafe and ate breakfast with a guy who said he'd killed somebody, is that right?

A Yes.

Q Didn't that scare you?

A No, I really wasn't for sure whether they'd killed anybody or not.

Q Did it scare you that they'd beaten somebody up and thought they'd killed someone?

A No.

Q So, you just went over to Dottie's Cafe and ate breakfast with a murderer?

A With Randy.

Q Okay. I believe you said when you got back home about 8:30 in the morning, you woke Theresa up and told her to take you up to the cab office?

A Yes, sir.

Q You said something about changing some pants; you wanted to change from the pants you were wearing into some older pants so that you could work on this car.

[Vol. VII, 117] A Yes, sir.

Q Did you have some good pants on or something?

A Yes, sir, I did.

Q Like you've got on today?

A No, they was good jeans—blue jeans.

Q Dress jeans instead of working jeans?

A No, they was just—they was a fairly new pair of blue jeans.

Q Had you been wearing them very long?

A I had wore 'em the day before.

Q Were they dirty?

A Yes, they was dirty.

Q Then why didn't you work in them?

A Because I didn't want to get oil, grease on 'em. I was supposed to work on a car for a man.

Q What happened to those jeans?

A I threw 'em on the washin' machine.

Q Who does your wash?

A Theresa McDade.

Q Now, then, later that day, I believe that you, after Gene's Barber Shop closed, he got through with all of his many haircuts that day, I take it? Is he pretty busy giving haircuts?

A Sometimes.

[Vol. VII, 118] Q Giving as many haircuts as he usually does there, late Saturday afternoon?

A Not on Saturday, he don't.

Q Did he close around 5:30, and you walked over to Bahan's and saw Randy and his family and friends?

A Yes.

Q Now, as I understand it, you said as you shot pool for about an hour or an hour and a half?

A Yes.

Q No conversation with Randy about this thing the night before, again?

A No, nothin' about that, no.

Q You still didn't think much of it?

A No, sir, I didn't.

Q Thought he was kidding?

A Yes, sir.

Q Then you walked over to Andy's place and I believe from what you said, you didn't eat and Randy didn't eat?

A No, sir.

Q There was some talk about wanting to go to Harold's?

A Yes, sir.

Q About what time was that that Randy asked you to go with him to Harold's?

A He said somethin' about it in Bahan's.

[Vol. VII, 119] Q Okay, and do you know about what time it was that you left Andy's place?

A Yes, it was a little before nine.

Q And, what time did the band start?

A Supposed to start at nine o'clock.

Q Randy said something about he wanted to hurry up and go there before the band started?

A Yes.

Q Why would you want to get there before the band started?

A To get there to hear 'em start.

Q You wouldn't have to pay a cover charge, maybe?

A No, you pay a cover charge, yes.

Q But Randy was real anxious to get there before the band started around nine?

A Yes.

Q So, you left Andy's and Randy was so excited to get to Harold's so quickly, instead, you went over to Randy's house?

A Yes, because he said he wanted to change clothes before he went.

Q Now, Randy came out with a big bag of reefers?

A Yes.

Q You didn't use any, but the other three did?

[Vol. VII, 120] A I didn't use it; I don't smoke.

Q Don't smoke at all?

A I smoke cigarettes.

Q So, when you said you don't smoke, you just don't smoke dope?

A I don't smoke dope.

Q What do you smoke?

A I smoke cigarettes.

Q Anything else?

A Cigars.

Q Now, I believe you said you were out there with Randy at Harold's Club until closing time?

A Yes, sir.

Q Never discussed this again?

A No, sir.

Q Randy never brought it up again?

A No, sir, he didn't.

Q Well, but at the apartment at his house, before you went to Harold's, you kinda' was curious what he and Rick were talking about?

A Yes, sir.

Q And you came in on the tail end of the conversation where he said, "I really ain't kiddin': I killed that dude"?

A Yes, sir.

[Vol. VII, 121] Q And you still thought he was just kidding?

A I didn't know what to think, really.

Q Well, Mr. Miller, wasn't there some time in this whole period of time—

A I thought in the house, when I seen the blood, I thought, maybe, they hurt somebody pretty bad, but I didn't really think they'd killed anybody.

Q How about "Butch", your good friend—didn't you talk to him all that Saturday?

A No, I didn't.

Q Weren't with him at all?

A No, that Saturday that him and Randy had come over to my house, that's the only time that I'd seen him.

Q How about up at Bahan's later that afternoon?

A He wasn't up there when I walked over there.

Q Well, not when you walked over—didn't you ever see "Butch" there at Bahan's, at all?

A Saturday?

Q Saturday afternoon, before you went to Andy's.

A No, sir.

Q He wasn't in there at all?

A I didn't see him.

Q Now, "Butch", you never bothered to ask him again if he was kidding, as after all, he woke you up?

[Vol. VII, 122] A No, sir.

Q Now, you went to this party at Murrayville, took Randy along?

A Yes, sir.

Q When you got back to town, you went and ate breakfast—where'd you go?

A Sambo's.

Q Okay. You took Mark Lockwood with you?

A Yes, sir.

Q No conversation with Randy, again, about beating up the guy or killing him?

A No, sir.

Q Then you went over to "Butch" Armstrong's house, just shortly before you were arrested, didn't you?

A Right after we took Mark Lockwood to Rollin' Acres, yes.

Q And, you said Buster—that's "Butch's" brother?

A Yes, sir.

Q He was really mad, wasn't he?

A Yes, sir.

Q Said that the police were looking for Randy and Rick and that his brother, "Butch", was in jail?

A Yes, sir.

Q Didn't you think you'd better get away from them—[Vol. VII, 123] or did you think they were still kidding?

A No, I didn't think they was kiddin'; I thought they was in trouble.

Q For hurting a guy or killing a guy?

A I didn't know whether they was in trouble for hurtin' him or killin' him or what.

Q So, for almost 20 hours or so, you had been roused out of your sleep, because "Butch" wanted your advice on something that he thought he was in trouble for; you had been driven around town, and back to Randy's house. You saw blood in the car; you saw blood in the apartment and you'd been told several times that they'd killed someone, and you thought they were kidding?

A Yes, sir.

Q And you just hung around them; is that right?

A Yes, sir.

Q "Butch" ever ask for your advice when he beat someone up before?

A No, sir.

Q Didn't you think that was kind of strange for him to just ask for your advice, like that?

A No, sir, he was nervous and he was worried about something.

Q You could tell that because you know him pretty well?

[Vol. VII, 123a] A Yes, I know "Butch" pretty well.

Q Well, would he get nervous about just beating somebody up?

A If he thought he was goin' back to the penitentiary, yes, he would.

Q And, you're his source of advice?

A Sometimes.

Q Why do you suppose he called on you?

A I don't know.

Q Why didn't you just tell them to go back home and keep you out of it?

A "Butch" is my friend, and he wanted to talk to me and so I went with him.

Q Randy isn't your friend, is he?

A No, he isn't.

Q So, you would do most anything to help your friend, "Butch"?

A It depends.

Q Including testifying against Randy—makin' up this wild story?

A I ain't makin' up no story, Mr. Parkinson; I'm tellin' the truth.

Q MR. PARKINSON: May we approach the bench?

THE COURT: You may.

[Vol. VII, 124] (Discussion out of the hearing of the jury:

THE COURT: All right, Gentlemen. It's not proper for the State to develop on cross examination of a witness who remained silent during interrogation that he had not told police about matters he testified to during trial. Requiring the defendant to testify what he told to police is inconsistent with the 5th and 14th Amendments—*People v. White*, 53 Ill. Ap. 3 326.

MR. PARKINSON: Thank you.

THE COURT: Sustain the objection/

MR. LEEFERS: Mistrial?

THE COURT: No mistrial.

MR. LEEFERS: Thank you, Your Honor.)

Q MR. PARKINSON: When this was all over for this whole several hours, did you ever bother to inquire where the body was?

A I did once. I asked "Butch" in the house, what they done with the guy, and "Butch" said they'd got rid of him.

Q Okay; you stuck pretty close to a guy you weren't friends with for about 20 hours, didn't you?

A Yes.

Q That's Randy?

A Yes, sir.

Q Were you afraid he'd talk?

[Vol. VII, 125] A No, sir.

Q Did you have the same worry that "Butch" told you, that he wasn't sure about Randy?

A No, sir, I didn't.

Q You weren't too sure about Randy, either, were you?

A I don't know Randy. The reason why I was with Randy, he was a'payin' for the drinks and he was payin' for everything. I didn't have the money, and he was payin'.

Q You'd never been to Dottie's Cafe in your life, had you?

A Yes, I'd been there before, before Mrs. Williams owned it.

Q But, after Mrs. Williams owned it, you'd never been there to eat, had you?

A No, sir.

Q And you drank beer with and hung around Randy Williams for almost 20 hours?

A Yes, sir.

Q A guy that's not your friend?

A Yes, sir.

Q Afraid he'd go to the police?

A No, sir.

MR. PARKINSON: No other questions.

THE COURT: Thank you.

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IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
MORGAN COUNTY, ILLINOIS

(Title Omitted in Printing)

Closing Argument by Mr. Parkinson.

* * * * *

[Vol. VII, 173] We furnished you with an eye-witness to the crime. They make a big deal out of Randy Williams is a confessed kidnapper; that, he is.

However, Randy Williams got a deal; he got the charges of murder dropped against him. If you believe Randy Williams, he didn't kill him, though. You bet he didn't; he shot at a dead body. If anything, he missed the dead body once. In any event, the body of Neil Gorsuch was already dead. Yes, he got a deal. He pled guilty to a felony of kidnapping. He's got to face that, still in jail. He's got to face the court sentencing on that later.

Without Randy Williams, "Chuck" Miller wouldn't be in this court today, would he? Didn't hear from "Butch" Armstrong coming up here to testify about his good buddy, did you? The State is willing, defense counsel will argue to you, to make a deal with this Randy Williams, a confessed kidnapper and murderer, just to get "Chuck" Miller.

We made a deal, if you want to call it that, with a guy who's willing to tell the truth, a man who told the truth of his involvement on February 10, 1980. Sure, he was wrong in [Vol. VII, 174] details; sure, he left some things out; sure, his statement is confusing; sure, he lied at that time about not being with his brother as they left the Regulator Tavern at first, but he was in custody only a

few hours. He was charged with murder. He knew they had him, cold turkey, but he told them a story, as they call it, an account, as I call it, shortly after his arrest, factually corroborated by an independent investigator.

So, if you call that a deal, put that aside. The question is, deal or no deal, did Randy tell you the truth? It really boils down to, who told you the story here and who told you the truth? You either believe Randy Williams or you believe "Chuck" Miller. That is your choice. It's as simple as that.

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IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
MORGAN COUNTY, ILLINOIS

(Title Omitted in Printing)

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People's Instruction #1
I.P.I. 1.01 (Given)

[C 368] Members of the jury, the evidence and arguments in this case have been completed, and I will now instruct you as to the law.

The law applicable to this case is stated in these instructions and it is your duty to follow all of them. You must not single out certain instructions and disregard others.

It is your duty to determine the facts, and to determine them only from the evidence in this case. You are to apply the law to the facts and in this way decide the case.

Neither sympathy nor prejudice should influence you. You should not be influenced by any person's race, color, religion or national ancestry.

From time to time it has been the duty of the court to rule on the admissibility of evidence. You must not concern yourselves with the reasons for these rulings. You should disregard questions and exhibits which were withdrawn or to which objections were sustained.

You should also disregard testimony and exhibits which the court has refused or stricken.

The evidence which you should consider consists only of the testimony of the witnesses and the exhibits which the court has received.

Any evidence which was received for a limited purpose should not be considered by you for any other purpose.

You should consider all the evidence in the light of your own observations and experience in life.

Neither by these instructions nor by any ruling or remark which I have made do I mean to indicate any opinion as to the facts or as to what your verdict should be.

IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
MORGAN COUNTY, ILLINOIS

(Title Omitted in Printing)

**Excerpt of Trial Court's Ruling
on Motion to Determine Attorney's Fees**

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[Vol. XI, 62] Nothing complex about the trial; the trial, actually, was a swearing match. You had two witnesses, when you get right down to it. All of the rest was dressing—the pathologists, all of the police officers that made the investigation out at the scene and took the photographs at the scene, that did the investigation. Any time they find a dead body like that, they do the same thing, whether it's a suicide or a murder. Sometimes those investigating routines uncover other things that lead to other things, that lead to other things that eventually lead to the conviction of a defendant.

[Vol. XI, 63] Not necessarily so in this case. In this case, without the quote, swearing match, unquote, there was no way that the State was going to convict Mr. Armstrong or this defendant, Miller. You had to have Mr. Williams's testimony, so it boils down to a swearing match; which was the jury going to believe?

Fortunately for the State, they believed their witness. Unfortunately for the defendant, they believed their witnesses. Could have gone just the very opposite.

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